

SUPPORTING STATEMENT

Notification of Legal Identity, 30 CFR Part 41.20

A. JUSTIFICATION

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.

Section 109(d) of the Federal Mine Safety and Health Act of 1977 (P.L. 91-173 as amended by P.L. 95-164) (the Act), requires each operator of a coal or other mine to file with the Secretary of Labor (Secretary), the name and address of such mine, the name and address of the person who controls or operates the mine, and any revisions in such names and addresses. Title 30 CFR Part 41 implements this requirement and provides for the mandatory use of MSHA Form 2000-7, Legal Identity Report, for notifying MSHA of the legal identity of the mine operator.

The legal identity for a mine operator is fundamental to enable the Secretary to properly ascertain the identity of persons and entities charged with violations of mandatory standards. It is also used in the assessment of civil penalties which, by statute, must take into account the size of the business, its economic viability, and its history of previous violations. Because of the rapid and frequent turnover in mining company ownership, and because of the statutory considerations regarding penalty assessments, the operator is required to file information regarding ownership interest in other mines held by the operator and relevant persons in a partnership, corporation or other organization. This information is also necessary to the Office of the Solicitor in determining proper parties to actions arising under the Act.

MSHA is proposing revisions to the form 2000-7 to (1) enhance it's clarity by including Plain Language required by the presidential memorandum dated June 1, 1998; (2) eliminate duplicate entry; (3) include the Taxpayer Identification Number (TIN); and, (4) facilitate e-filing.

The Agency is requesting approval to include the TIN field to comply with the requirements of the Debt Collection Improvement Act of 1996 (DCIA) (effective April 26, 1996). The DCIA mandates that MSHA require regulated entities and persons who have been, or are, assessed civil penalties to report their TIN to MSHA under Section 31001(i) of Public Law No. 104-134 (DCIA). Specifically, Title 31 U.S.C., amended section 7701, new subsection (c)(1), states that "[t]he head of each Federal agency shall require each person doing business with" a Federal agency to furnish a TIN. Section 7701(c)(2)(D) states that "a person shall be considered to be doing business with a Federal agency if the person is assessed a fine, fee, royalty or penalty by the agency."

MSHA needs a TIN when issuing any payments, including refunds of overpaid civil penalties. Section 31001(y) of the DCIA, amended Title 31 U.S.C., Section 3325 new subsection (d), states “[t]he head of an executive agency or an officer or employee of an executive agency referred to in subsection (a)(1)(B), as applicable, shall include with each certified voucher submitted to a disbursing official pursuant to this section the taxpayer identification number of each person to whom payment may be made under the voucher.”

In addition, MSHA needs a TIN to report delinquent debtors to credit bureaus, to the Department of the Internal Revenue Service for Tax Refund Offset (Form 1099-C), and to the Department of Treasury’s Offset Program (TOP). The TOP offsets any Federal money being distributed to a delinquent debtor when the debtor owes the Federal government money. The TIN is also needed to refer delinquent debtors to Treasury for the cross-servicing program and when completing Claims Collection Litigation Reports for those who are referred to the Department of Justice for collection.

2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.

MSHA uses the information to properly identify persons charged with violating mandatory safety and health standards and, in the assessment of civil penalties on those violations. The Office of the Solicitor uses the information to expedite service of documents upon the mine operator.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.

In order to comply with the Government Paperwork Elimination Act Mine operators may now submit the information electronically via the Internet by accessing the MSHA Home Page (<http://www.msha.gov>) and selecting “Forms and On-line Filing” then “Form 200-7). Mine operators may retain the information in whatever method they chose.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.

The required information is fundamental to MSHA’s efficient operation. Accurate information needed for these functions is mostly supplied by the mine operator, especially where ownership interests are concerned. MSHA does follow-up research to verify reported ownership information.

5. If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-I), describe any methods used to minimize

burden.

The provisions of the Federal Mine Safety and Health Act of 1977 (Mine Act), and MSHA regulations and standards apply to all operations, regardless of size, because accidents, injuries, and illnesses can occur at any mine regardless of size. Congress intended that the Mine Act be enforced at all mining operations within its jurisdiction regardless of size and that information collection and recordkeeping requirements be consistent with efficient and effective enforcement of the Mine Act. However, Congress did recognize that small operations may face problems in complying with some Mine Act provisions. Section 103(e) of the Mine Act directs the Secretary of Labor not to impose an unreasonable burden on small businesses when obtaining any information under the Act. This information collection does not have a significant impact on a substantial number of small entities.

6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

The information concerning legal identity of the mine operator and any changes that may occur need to be submitted only once.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner:

- requiring respondents to report information to the agency more often than quarterly;

Changes to any information contained in the Legal Identity Report (Form 2000-7) need only be submitted once, and updated as changes occur during the life of the mine. This collection of information is otherwise consistent with the guidelines in 5 C.F.R. 1320.5, and does not contain any requirements for respondents to report more than quarterly.

- requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;

Not applicable.

- requiring respondents to submit more than an original and two copies of any document;

Not applicable.

- requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;

The Legal Identity form is retained for the life of mine ownership.

- in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;

Not applicable.

- requiring the use of a statistical data classification that has not been reviewed and approved by OMB;

Not applicable.

- that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or

None.

- requiring respondents to submit proprietary trade secret, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.

8. If applicable, provide a copy and identify the data and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years -- even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

MSHA will publish the proposed information collection requirements in the Federal Register, notifying the public that these information collection requirements are being reviewed in accordance with the Paperwork Reduction Act of 1995, and giving interested persons 60 days to submit comments.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

MSHA has decided not to provide payments or gifts to respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

Source documents are retained for as long as the mine is in operation and are transferred to the

Federal Records Center after the mine is closed. Tapes are retained indefinitely for historical purposes. Microfilm records are held for 5 years. Computer safeguards are in accordance with the National Bureau of Standards publication "Computer Security Guidelines for Implementing the Privacy Act of 1974." Manual storage is in file cabinets. During working hours, records are accessible only to authorized personnel.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

That portion of 30 CFR Part 41 that requires the Federal identification number of other mines wherein the operator (owner, partnership, corporation or organization) owns 20 percent or greater interest might be construed to be a disclosure of financial interests. Such information, however, is needed to evaluate and adjust a penalty assessment burden, because Section 110(I) of the Act states: "... the Commission shall consider the operator's history of previous violations, the appropriateness of such penalty to the size of the business of the operator charged, whether the operator was negligent, the effect on the operator's ability to continue in business, the gravity of the violation, and the demonstrated good faith of the person charged ..."

12. Provide estimates of the hour burden of the collection of information.
The statement should:

- Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.
- If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens in Item 13 of OMB Form 83-I.
- Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in

Item 14.

MSHA estimates that each year there is an average of 15,600 existing mines in operation, of which about 875 are new mines, and the remaining 14,725 mines are now in compliance with the legal identity reporting requirements of 30 CFR Part 41. Of the 14,725 mines, MSHA estimates that 5,750 operators will amend the information in their legal identity reports. MSHA estimates that it would take the mine operator 30 minutes by hard copy and 20 minutes electronically to complete a report for newly opened mines, and 15 minutes (.25 hours) by hard copy and 10 minutes electronically to amend the information in a previously submitted report. MSHA foresees no additional burden on the mine operator with the addition of the requested new TIN number field.

NEW MINES:

830 new reports (hard copy) annually x 30 minutes = 415 hours

45 new reports (.05 % electronically filed) annually x 20 minutes = 15 hours.

CHANGES:

4,150 reports filed hard copy annually x 15 minutes (.25 hours) = 1,038 hours

1,600 reports (.2782% electronically filed) x 10 minutes = 267 hours.

Total hours = 1,735 hours.

MSHA experience indicates that the MSHA Form 2000-7 is prepared by a secretary who earns approximately \$20 per hour (salary averaged based on data from the U.S. Metal and Industrial Mineral Mine Salaries, Wages, & Benefits - 1999 Survey Results and U.S. Coal Mine Salaries, Wages, & Benefits - 1999 Survey Results).

$\$20 \times 1,735 = \$34,700.$

13. Provide an estimate of the total annual cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14).

- **The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life); and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.**
- **If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate. In developing cost burden**

estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.

- Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.

The Notification of Legal Identity report or changes to the report need to be submitted only once by the mine operator. Therefore, start-up cost, operation and maintenance cost, and purchase of services cost, have not been associated specifically for this regulatory requirement. Mailing cost that may be incurred based on annual submission estimates is as follows:

NEW MINES:

830 new reports annually x \$0.34 postal cost	=	\$ 282.20
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CHANGES:

4,150 reports (filed hard copy) annually x \$0.34 postal cost	=	<u>\$1,411.00</u>
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All new or changes submitted electronically incur zero charges.

TOTAL CHARGES	=	\$1,693.20
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14. Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from Items 12, 13, and 14 in a single table.

MSHA enforcement personnel examine the records during routine inspection. There is no significant cost to the Federal Government.

15. Explain the reasons for any program changes or adjustments reporting in Items 13 or 14 of the OMB Form 83-I.

The decrease of 712 burden hours (from 2,447 to 1,735) is due to a decrease in the number of mine operators currently filing this report; the use of electronic filing; and, the reduction of revised information that needed to be reported on the form. However, since January 2001, MSHA has realized an increase in new mines, and believes that an upward trend is developing.

16. For collections of information whose results will be published, outline plans for tabulation, and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

MSHA does not intend to publish the results of this information collection; however, some of the

information will be available on it's website.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate .

MSHA is not seeking approval to not display the expiration date for OMB approval of the MSHA Form 2000-7.

18. Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submission," of OMB 83-I.

There are no certification exceptions identified with this information collection request.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

Collection of information does not employ statistical methods.

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September 7, 2001